

Amendments to the Drawings

The attached sheet of drawings includes changes to Figure 5 and the addition of new Figures 8 and 9. Part numbers 82a, 82b, 83, 84 and 85 are added to Figure 5. A completely new set of Figures is submitted as the number of sheets has changed.

Attachment: Replacement Sheets

Remarks/Arguments

Claims 1-21 are pending in the application. By this amendment, claims 1, 8, 9, 14, 16 and 17 are amended, claims 22-33 are canceled, the specification is amended, Figure 5 is amended and Figures 8 and 9 are added.

Page 2 of the Office Action rejects claims 1-6, 8-18, 22-24, 28-30 and 32 under 35 USC 103(a) as unpatentable over US Patent 6,168,368 to Apgar et al. (hereinafter "Apgar") or US Patent 4,858,345 to Abe et al. (hereinafter "Abe") for the reasons set forth in paragraph 5 of the Office Action mailed 15 July 2005. The rejection is respectfully traversed.

Claim 1 recites:

"A linkage support system for a work vehicle, the work vehicle including a frame, a work tool, and a linkage for manipulating the work tool, the frame having a left mast portion and a right mast portion, the linkage support system comprising:

at least one fastener;

a load bearing support, the load bearing support being a portion of the frame located between the left mast portion and the right mast portion; and

a linkage pin support, the linkage pin support removably attached to the load bearing support via the at least one fastener, the load bearing support capable of being removably attached to an alternate linkage pin support, the linkage coupled to the linkage pin support." (emphasis added)

Nowhere does Apgar or Abe disclose or even suggest "a linkage pin support removably attached to a load bearing support via at least one fastener" with "a linkage coupled to the linkage pin support" as recited in claim 1. The Office Action merely asserts that removably attaching a linkage pin support would have been obvious to one skilled in the art using (1) Applicant's invention as a reference and, presumably, (2) Nerwin v. Erlichman, 168 USPQ 177, 179 (hereinafter "Nerwin v. Erlichman") as justification. Each of these will be addressed in turn.

(1) Asserting Obviousness Using Applicant's Invention as a Reference

The 15 July 2005 Office Action admitted that neither Apgar et al. nor Abe et al. disclosed the features mentioned above. Applicants agree that neither Apgar et al. nor Abe et al. nor any combination thereof disclose or suggest "the linkage pin support removably attached to the load bearing support" as recited in claims 1, 9 and 16. Further, Applicants agree that neither Apgar et al. nor Abe et al., taken alone or in combination, disclose or suggest "removably attaching the linkage pin support to the load bearing support".

The 15 July 2005 Office Action and the current Office Action merely assert that the features emphasized above are obvious. According to MPEP 706.02(j):

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure." (emphasis added)

Applicants respectfully submit that, as the Office Action states, neither of the applied references, taken alone or in combination, teach or suggest the features emphasized above, i.e., the structure or method involved in "removably attaching the linkage pin support to the load bearing support". Neither the teaching nor the suggestion to make the claimed combination or the reasonable expectation of success can be found in the applied art. Thus, in light of this rule, the rejection of at least claim 1 is improper. Further, claims 8, 9, 14, 16 and 17 also recite the features emphasized above. Therefore, the rejection is improper for these claims as well as all claims depending from them, i.e., claims 2-6, 10-13, 15 and 18 as these dependent claims include the emphasized features and recite additional features. Finally, claims 22-24, 28-30 and 32 are canceled.

(2) Nerwin v. Erlichman

The 15 July 2005 Office Action and the current Office Action uses Nerwin v. Erlichman to make the extremely broad assertion that constructing a formerly integral structure in various elements involves only routine skill in the art. However, Nerwin v. Erlichman is concerned with claim limitations and whether identical limitations may exist in integral, single element, structures and and multi-part structures. As stated in Nerwin v. Erlichman 168 USPQ 178:

"In issue is Erlichman's right to make in count 1 limitations (1) 'a divider between safe exposure and processing chamber' and (2) 'means effected upon movement of said strip along said the first path for denoting the leading edge of deep said sheet along a second path branching from said first path... into said exposure chamber.'

Nerwin in effect contends that these limitations set forth to separate elements, that he discloses a divider comprising the roller 44 and the wall 34, that in his disclosure 'the directing means comprises stripper 43,' that in Erlichman's disclosure of Figure 10 these limitations find a support only in the structure 198, that that structure is a single element, and that Erlichman 'may not use this single element to meet to positively stated and separately claimed elements of the count."

Clearly, at issue in Nerwin v. Ehrlichman is whether multiple functions may be performed by one-piece structures. The Court was merely interested in whether Nerwin's invention functioned the same as Ehrlichman's regardless of whether the structure was one-piece or integral. It concluded that the inventions functioned identically.

In the instant case, Applicant's invention has advantages over any of the cited art. The linkage pin supports may be optimally placed on front frames without concomitant costs and manufacturing difficulties. Also, alternate linkage pin supports may be removably attached to provide for alternate linkages.

In *In Re Sponnoble* 405 F.2d 578, the invention included the same physical elements used in the prior art the difference lying only in the application of lubricant to the entire surface area of the silicon stopper. The Court stated "It shouldn't not be necessary for this Court to point out that a patentable invention may lie in the discovery of the source of the problem even though the remedy may be obvious once the source of the problem is identified."

Clearly, *Nerwin v. Erlichman* is incorrectly applied in the instant case in that the structure and the functions of Applicant's convention offers advantages over the cited art.

Conclusion: Neither Apgar nor Abe, taken alone or in combination, disclose every feature of claims 1,8, 9,14, 16 and 17 or the claims depending from them. Further, *Nerwin v. Erlichman* does not apply. It is respectfully requested that the rejection of claims 1-6, 8-18, 22-24, 28-30 and 32 under 35 USC 103(a) as unpatentable over Apgar or Abe as applied and for the reasons set forth in paragraph 5 of the Office Action mailed 15 July 2005 be withdrawn.

Page 3 of the Office Action rejects claims 7, 19-21, 25-27, 31 and 33 under 35 USC 103(a) as unpatentable over Abe in view of US Patent 5,746,861 to Mandon (hereinafter "Mandon") as applied and for the reasons set forth in paragraph 6 of the 15 July 2005 Office Action. The rejection is respectfully traversed.

The Office Action apparently assumes that a renders claims 1 and 16 unpatentable. As demonstrated above, neither Abe nor Apgar, taken alone or in combination, disclose or even suggest every feature of claims 1 and 16 or, in particular, a pin support the removably attached to a load bearing support via a fastener. As the Office Action admits, Mandon nearly discloses a lever 68 and neither discloses nor suggests the indicated feature. Thus, neither Abe nor Mandon, taken alone or in combination, disclose or suggest every feature of claims 1 and 16. Further, these documents cannot disclose or suggest every feature of dependent claims 7 and 19-21 as these claims depend from claims 1 and 16, respectively, and recite additional features. Further, claims 25-27, 31 and 33 are canceled. It is respectfully requested that the rejection of claims 7, 19-21, 25-27, 31 and 33 under 35 USC 103(a) as unpatentable over Abe in view of US Patent 5,746,861 to Mandon (hereinafter "Mandon") as applied and for the reasons set forth in paragraph 6 of the

15 July 2005 Office Action be withdrawn.

Page 3 of the Office Action rejects claims 1-6, 8-18, 22-24, 28-30 and 32 under 35 USC 103(a) as unpatentable over Apgar or Abe in view of US Patent 5,272,788 to Gilstrap (hereinafter “Gilstrap”). The rejection is respectfully traversed.

As demonstrated above, neither Apgar nor Abe, taken alone or in combination, disclose or even suggest every feature of the invention as recited in independent claims 1, 8, 9, 14, 16, 17 or any of the claims depending from them including claims 2-6, 10-13, 15 and 18. Further, Gilstrap is misapplied for all the reasons set forth in Applicant’s Appeal Brief. Even if Gilstrap was correctly applied it would not evince any of the advantages of the invention. Clearly, the combination Apgar, Abe and Gilstrap does not disclose every feature of the invention as recited in claims 1-6 and 8-18. Claims 22-24, 28-30 and 32 are canceled. It is respectfully requested that the rejection of claims 1-6, 8-18, 22-24, 28-30 and 32 under 35 USC 103(a) as unpatentable over Apgar or Abe in view of Gilstrap be withdrawn.

Page 3 of the Office Action rejects claims 7, 19-21, 25-27, 31 and 33 under 35 USC 103(a) over Abe in view of Gilstrap as applied to claims 1, 16, 25 and 28 above and further in view of Mandon as applied in the Office Action mailed 20 March 2006. The rejection is respectfully traversed.

As demonstrated above, Abe does not disclose every feature of the invention recited in independent claims 1 and 16; neither can it disclose every element of claims 19-21 which depend from claim 16. Further, as demonstrated above, Mandon merely discloses a lever 68 and Gilstrap is misapplied. Finally, claims 25-27, 31 and 33 are canceled. It is respectfully requested that the rejection of claims 7, 19-21, 25-27, 31 and 33 under 35 USC 103(a) over Abe in view of Gilstrap as applied to claims 1, 16, 25 and 28 above and further in view of Mandon as applied in the Office Action mailed 20 March 2006 be withdrawn.

Page 3 of the Office Action rejects claims 12, 21 and 33 under 35 USC 103(a) as unpatentable over Apgar or Abe in view of newly cited WO 00/47833. The rejection is respectfully traversed.

As demonstrated above, neither Apgar nor Abe, alone or in combination, disclose or suggest “a linkage pin support, the linkage pin support removably attached to the load bearing support via the at least one fastener, the load bearing

support capable of being removably attached to an alternate linkage pin support, the linkage coupled to the linkage pin support" as recited in independent claims 9 and 16 and, consequently in claims 12 and 21 which depend from claims 9 and 16. WO 00/47833 is cited merely to disclose an access hole. Thus, the combination of either Apgar or Abe and WO 00/47833 fails to disclose or even suggest every element of claims 12 and 21. Claim 33 is canceled. It is respectfully requested that the rejection of claims 12, 21 and 33 under 35 USC 103(a) as unpatentable over Apgar or Abe in view of newly cited WO 00/47833 be withdrawn.

Page 3 of the Office Action rejects claims 12, 21 and 33 under 35 USC 103(a) as unpatentable over Apgar or Abe in view of Gilstrap as applied to claims 11, 20 and 32 above and further in view of WO 00/47833 as applied in the preceding rejection. The rejection is respectfully traversed.

As demonstrated above, neither Apgar nor Abe, alone or in combination, disclose or suggest "a linkage pin support, the linkage pin support removably attached to the load bearing support via the at least one fastener, the load bearing support capable of being removably attached to an alternate linkage pin support, the linkage coupled to the linkage pin support" as recited in independent claims 9 and 16 and, consequently in claims 11 and 20 which depend from claims 9 and 16. Further, as demonstrated Gilstrap is misapplied and, even if correctly applied, does not disclose the advantages of Applicant's invention. Finally, WO 00/47833 is cited only for the disclosure of an access hole. Clearly, the indicated combination of documents does not disclose or even suggest every feature of the claimed invention. It is respectfully requested that the rejection of 12, 21 and 33 under 35 USC 103(a) as unpatentable over Apgar or Abe in view of Gilstrap as applied to claims 11, 20 and 32 above and further in view of WO 00/47833 as applied in the preceding rejection be withdrawn.

Page 3 of the Office Action re-asserts that Nerwin v. Erlichman is applicable. Applicants respectfully assert that for all the reasons detailed above, Nerwin v. Erlichman is misapplied and inappropriate for the current case.

For at least the reasons set forth above, Applicants respectfully submit that the application defines patentable subject matter and is condition for allowance. Favorable reconsideration and prompt allowance of claims 1-33 is respectfully solicited.

Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, he is invited to contact Applicants' undersigned representative at the telephone number listed below.

Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525.

Respectfully,

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